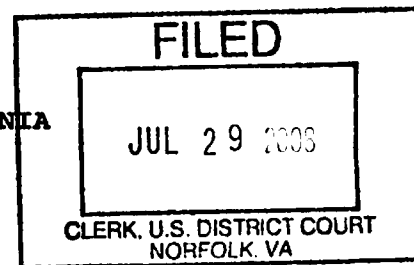


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



ANTONIO PERRY-EL, #322554,

Petitioner,

v.

2:07CV371

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on May 19, 2003, in the Circuit Court of Arlington County, Virginia, for abduction with intent to derive pecuniary benefit. As a result of the conviction, petitioner was sentenced to serve twenty-five years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on June 9, 2008. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court received from petitioner on June 19, 2008, objections to the report.

The Court, having reviewed the record and examined the objections filed by the petitioner and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States


Magistrate Judge. Therefore, it is ORDERED that the petition be DENIED and DISMISSED pursuant to the statute of limitations and that judgment be entered in respondent's favor.

To the extent that petitioner objects to the Magistrate Judge's findings and conclusions that petitioner did not seek timely relief, the objection is without merit. Petitioner filed the instant petition more than two years after the federal statute of limitations had run, and the record is devoid of any basis upon which equitable tolling would apply.

To the extent that petitioner objects to other aspects of the Magistrate Judge's Report and Recommendation, the objections are without merit. It has been determined that the petition is barred by the statute of limitations, and there is no evidence that petitioner is entitled to equitable tolling. Therefore, petitioner's objections regarding the writ coram nobis and his claim that he should have had a mental evaluation will not be addressed by this Court. The Magistrate Judge's conclusions on the issues are correct, and no further explanation is required.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for the respondent.



/s/ Jerome B. Friedman
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July 29, 2008